IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/SPECIAL CIVIL APPLICATION NO. 4977 of 1995

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JALARAM GROUP HOUSING SOCIETY

Versus

STATE OF GUJARAT

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Appearance:
MR TUSHAR MEHTA for the PETITIONER(s) No. 1
MR HS SONI, ASST. GOVERNMENT PLEADER for the RESPONDENT(s) No. 1,2
MR AR THACKER for the RESPONDENT(s) No. 3,4,4.1
MR AS VAKIL for the RESPONDENT(s) No. 5
MR AS VAKIL(962) for the RESPONDENT(s) No. 3,4,4.1
MR BB NAIK for the RESPONDENT(s) No. 7
MR MRUGEN K PUROHIT for the RESPONDENT(s) No. 6
RULE SERVED BY DS for the RESPONDENT(s) No. 4.2,4.3,4.4

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CORAM: **HONOURABLE MS JUSTICE SONIA GOKANI**

Date : 28/09/2018

ORAL ORDER

1. This matter is placed before this Court by virtue of order dated 26.09.2018 pursuant to the letters dated 02.07.2018 and 18.08.2018 received from Police Inspector, Sola, High Court police station to hand over original Development Deed filed in Special Civil Application No. 4977 of 1995 for further investigation inasmuch as the Court proceedings being M.Case No.1 of 2005 filed under section 193 of the Indian Penal Code is presently pending before the learned Chief

Judicial Magistrate, Ahmedabad (Rural).

2. Petition being Special Civil Application No. 4977 of 1995 with Civil Application No.2974 of 2003 with Civil Application No.4106 of 2003 with Civil Application No.5400 of 2003 were disposed of by a common judgment by this Court (Coram: K.A. Puj,J., as he then was) on 22.08.2003. In the main petition, the challenge was made to the order of the State Government under section 20 of the Urban Land (Ceiling and Regulation Act)1976("the ULC" Act) and the order dated 20.06.1991 passed by the Charity Commissioner while exercising the powers under section 36 of the Bombay Public Trust Act,1950. The Court, after detailed discussion and reasonings, issued certain directions and eventually dismissed the main petition as well as all the three Civil Applications.

3. On the aforementioned reasons, while so doing, it was directed that the Registry of this Court shall keep the original document in safe custody, which was required for proper

adjudication of the the issue involved.

4. It is further emerging from the record that the Court also directed the Registry of this Court to initiate criminal proceedings against the petitioner as well as against all its partners, more particularly, Shir Jaswantbhai Jerambhai Patel at the time of disposal of the petition. The Registry was also further directed to make necessary inquiry and investigation with gegard to the letters and documents produced along with the affidavit on 11.08.2003, as the Court did not find the documents to be genuine and they are also attempted to have been concocted only with a view to create contemporaneous record and to justify the petitioner's version that the development agreement is in fact executed on 11.06.1987, as the same was the document, on the basis of which, the petitioner made its entire claim in the petition, which was under a cloud and did not inspire any confidence. No relief was granted and instead, certain directions were issued while disposing of the petition.

5. In this office note, the Court is not concerned with any of these directions issued at the time of disposal, except one referred to in paragraph 37 and 38 of the judgment, where the Registry had been directed to initiate prosecution for producing ingenuine document by inquiring into the matter.

6. It appears from the office note that criminal proceedings being M.Case No.1 of 2005 filed under section 193 of the Indian Penal Code has been lodged and the same is still pending before the Court of the learned Chief Judicial Magistrate, Ahmedabad(Rural), where the original document is required for due adjudication of the matter. The said original document/development deed is in safe custody of the Nazir Department and the two communications from the Senior Police Inspector, Sola High Court Police Station on placed on record. It emerges from the communication dated 02.07.2018 that the reference is also made of outward No.9924 dated 20.12.2015 that earlier such an application was made by the Police Inspector. However, the same

was not acceded to.

7. Subsequent request of 18.08.2018 reiterates earlier stand, therefore, this Court has heard learned Additional Public Prosecutor Mr. Soni for respondent NO.1 and also has examined the material on the record.

8. There being a specific direction of the Court of initiating prosecution pursuant to which the Assistant Registrar of this Court had already initiated the proceedings being the M.Case No.1 of 2005 under section 193 of the Indian Penal Code and the said matter is pending before the learned Chief Judicial Magistrate, Ahmedabad (Rural). The said development deed would need to be parted with for its necessary examination at the hands of expert in the Forensic Science Laboratory, so also for other and further necessary orders at the end of the Criminal Court concerned.

9. Resultantly, request has to be acceded to. Let the document in a sealed condition be handed over to the Senior Police Inspector of Sola High

Court police station, who shall produce the same before the learned Chief Judicial Magistrate, Ahmedabad (Rural).

10. The said Court, with all safeguards, shall direct the Investigating agency to do the needful in the matter.

11. Let this process be completed by the High Court Registry within one week.

12. Note stands disposed of accordingly.

(MS. SONIA GOKANI, J.)

SUDHIR